

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

In Re: PHARMACEUTICAL
INDUSTRY AVERAGE WHOLESAL
PRICE LITIGATION

MDL No. 1456

Master File No. 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:
(All Actions)

Judge Patti B. Saris

DECLARATION OF TIMOTHY B. GRIBBIN

I, TIMOTHY B. GRIBBIN, declare as follows:

1. I am the Director of Pharmacy Trade Development for Defendant Ortho-McNeil Pharmaceutical, Inc. ("OMP"). I have held this position since 2001.

Together RX Program

2. OMP is a founding member of the Together RX prescription savings program, which provides savings to eligible Medicare enrollees on more than 150 widely prescribed medicines at the pharmacy counter.

3. The OMP drugs that are offered to seniors at a discount through the Together RX program are BICITRA, DITROPAN XL, ELMIRON, FLOXIN, HALDOL, LEVAQUIN, MYCELEX, NEUTRAPHOS, PANCREASE, PARAFON FORTE DSC, POLYCITRA, REGRANEX, RENOVA, RETIN-A MICRO, SPECTAZOLE, TERAZOL, TOLECTIN, TOPAMAX, TYLENOL WITH CODEINE, TYLOX, ULTRACET, ULTRAM, URISPAS, and VASCOR ("OMP's Together RX drugs").

Price Reporting for OMP Drugs

4. My responsibilities as Director of Pharmacy Trade Development include the

reporting of price changes for OMP drugs to price reporting services such as FirstDataBank and Redbook and to customers.

5. The standard form that OMP uses to report price changes for its drugs identifies a "Price Per Sales Unit," and a suggested AWP. In OMP's case, the suggested AWP is 120% of the Price Per Sales Unit. The only exception to this rule applies to drugs acquired from ALZA Corporation – BICITRA, DITROPAN XL, ELMIRON, MYCELEX, NEUTRAPHOS, POLYCITRA, and URISPAS (the "ALZA drugs") – for which OMP, consistent with ALZA's historical practice, suggested AWPs that were 125% of the Price Per Sales Unit.

FirstDataBank Reports AWPs Exceeding Those Suggested by OMP

6. On March 8, 2002 OMP increased the price of a number of its drugs, including all of OMP's Together RX drugs. Following OMP's standard practice, the suggested AWPs were 120% of OMP's Price Per Sales Unit (except for the ALZA drugs, which had suggested AWPs that were 125% of the Price Per Sales Unit). See March 8, 2002 price change notification attached as Exhibit A.

7. When FirstDataBank subsequently published its updated price list, we noticed that FirstDataBank, without consulting with OMP, reported AWPs for OMP's drugs that were 125% of OMP's Price Per Sales Unit, including for those of OMP's drugs for which OMP had suggested AWPs that were 120% of its Price Per Sales Unit.

8. To the best of my knowledge, no one at OMP had advance knowledge of FirstDataBank's decision to report AWPs that were 125% of OMP's Price Per Sales Unit.

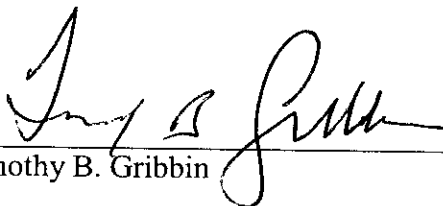
9. Unlike FirstDataBank, another price reporter, Redbook, published AWPs for OMP's drugs that were 120% of OMP's Price Per Sales Unit (with the exception of the ALZA drugs, reported at 125% of OMP's Price Per Sales Unit).

**OMP Continues to Report AWP
That Are 120% of Price Per Sales Units**

10. Even after FirstDataBank's decision to report AWP's that are 125% of OMP's Price Per Sales Unit, OMP has continued to suggest that its AWP's should be 120% of OMP's Price Per Sales Unit. This is true for all of OMP's drugs, including OMP's Together RX drugs (with the exception of the ALZA drugs, as explained above).

11. Despite OMP's suggestion that its AWP's should be 120% of its Price Per Sales Unit, FirstDataBank has continued to publish AWP's that are 125% of OMP's Price Per Sales Unit. Redbook, on the other hand, has continued to publish AWP's that are 120% of OMP's Price Per Sales Unit.

I declare under penalty of perjury that the foregoing is true and correct.



Timothy B. Gribbin

Executed on this 18th day of February 2004